

REMARKS

Claims 1, 2, 4, 5, 9, 10, 12-27, 30-40, and 51-60 are pending. Claims 3, 6-8, 11, 28-29 and 41-50 were previously cancelled without prejudice or disclaimer hereby. Applicant respectfully requests the Examiner to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

I. Claims 1, 2, 4, 5, 9, 10, 12-27, 30-40, and 51-60 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, in that the claims recite a range “up to 20% by weight” for which support could not be found. This rejection is respectfully traversed.

Independent claims 1 and 27

Applicant thanks the Examiner for the courtesy extended during a telephone call on April 10, 2009 between the Examiner Timothy Speer and Applicant’s patent attorney Kevin Pumm (USPTO Registration No. 49,046). During this telephone call, the Examiner indicated that the claimed range of ethylene-vinyl acetate would be supported by the specification if amended to recite “up to 19.35% by weight of ethylene-vinyl acetate.” Accordingly, Applicant submits that the above Section 112 rejection has been rendered moot by the present amendments, which clarify that the polymeric base material comprises up to 19.35% by weight of ethylene-vinyl acetate, and a phase-change material that includes a paraffin wax or a synthetic wax. Applicant notes that the amendments to independent claims 1 and 27 are fully supported by the application as originally filed. For example, paragraph [0050] of the application as published as U.S. Patent Application Publication 2006/0099403 states in part “For example, a mixture of ninety-five parts by weight of the paraffin wax and five parts by weight of the ethylene-vinyl acetate copolymer may be used. Alternatively, a mixture of twenty-five parts by weight of the paraffin wax and six parts by weight of the ethylene-vinyl acetate copolymer may be used.” Applicant notes that 5 parts divided by 31 total parts (5 parts + 26 parts) equals a percentage of about 19.35%. Thus, the claimed range of ethylene-vinyl acetate is supported by the specification.

Applicant further submits that these claimed features are not disclosed, taught, or suggested by any combination of the references *Maeda*, *Anderson*, or *Yenni* that were previously cited in the December 17, 2008 Final Office Action. In that same December 17, 2008 Final Office Action, the Patent Office relied upon *Yenni* (U.S. Pat. No. 6,090,728) for the disclosure of a resin matrix comprising a mixture of paraffin wax and ethylene vinyl acetate copolymer. But *Yenni* recites "Examples of polymeric materials useful as fiber-coat materials" that include an extensive, numerous list of 21 different component materials, all of which are presented as equally suitable. One skilled in the art randomly selecting ethylene-vinyl acetate and paraffin wax from the 21 different component materials disclosed in *Yenni* would be $1/21 \times 1/20$, which equals a chance of 1 out of 410 different combinations. A skilled artisan contemplating the recitation of 21 different component materials in *Yenni* would not have considered the combination of two select material components to be an exercise of routine ordinary skill. Rather, a person of ordinary skill in the art could only have selected, if at all, the particular combination of ethylene-vinyl acetate and paraffin wax from the 21 different component materials recited in *Yenni* through considerable effort and undue experimentation. Moreover, *Yenni* does not disclose or suggest anything about a phase-change material that has a reflow temperature that allows the thermally conductive material in particulate form suspended within the polymeric base material to flow into gaps and thereby at least reduce thermal impedance between the electronic device and the polymeric base material. As such, a person of ordinary skill in the art contemplating the teachings of *Maeda*, *Alderson* and *Yenni* would not have found it obvious to consider using a polymeric base material that comprises a phase-change material and up to 19.35% by weight of ethylene-vinyl acetate, where the phase-change material comprise a paraffin wax or a synthetic wax. As such, Applicant submits that claims 1 and 27 are not obvious in view of the cited references.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office

Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7500.

Applicant believes that there are no fees due in connection with this filing. If, however, Applicant owes any fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. 08-0750. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. 08-0750.

Respectfully submitted,

/Anthony G. Fussner/

Dated: April 30, 2009

By: _____
Anthony G. Fussner, No. 47,582

HARNES, DICKEY & PIERCE, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, Missouri 63105
(314) 726-7500
(314) 726-7501 (facsimile)